

Origin: E&E Website
Date: 12/20/2004
First Name: Barbara
Last Name: Page
Address: 11667 Cypress Valley Drive
City: San Diego
State: CA
Zip Code: 92131
Phone No.: 858-549-1416
Email Address: posies@san.rr.com
Topic: Energy and Minerals
Comments: Natural Gas costs a fortune. As a florist I have watched many of our local growers go out of business due to the costs of energy to heat green houses. Many used natural gas and went broke! Now most of the flowers I purchase for my shop are grown in South America. We have lost American jobs due to the costs of energy.....It's time we start building new power generating facilities and put America back to work.

G276-1

Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.

Origin: E&E Website
Date: 12/20/2004
First Name: Russell
Last Name: Painter
Address: 1525 Roble Grande Ln.
City: Alpine
State: CA
Zip Code: 91901
Topic: Other/General Comment
Comments: Our family is a single income family because we believe it is important for my wife to stay home and raise our three daughters. But it is becoming more and more difficult to do that these days. Gasoline prices keep rising, and electricity rates have been outrageous. Something needs to be done soon to lower our utility costs. BHP's Cabrillo Deepwater Port looks like a sensible solution to our energy problems.

G356-1

Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.

Origin: E&E Website
Date: 12/20/2004
First Name: Ron
Last Name: Palmer
Address: 6025 Pacific St.
City: Rocklin
State: CA
Zip Code: 95677
Topic: Other/General Comment

Comments: I am in full support of Cabrillo Port. It has met state and federal regulations, the company is using the most modern technologies possible, there is minimal environmental impacts, it won't be visible from shore, and because it's a floating structure when it's no longer needed it can be removed. In addition, I saw somewhere that the boats to the port were going to be powered by natural gas. If this is true, I further commend BHP for their environmental awareness. This is a great project and I'm excited about it.

G288-1

Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.

311029

Kusano, Ken LT

From: webmaster@landzoninglaw.com
Sent: Friday, December 17, 2004 9:41 PM
To: Kusano, Ken LT
Subject: Public response to prelim EIS/EIR for Cabrillo Port LNG proposal.
Attachments: LNG aesthetics memo.doc

USCG-04-16877-874



LNG aesthetics
memo.doc (79 KB...

Mark Alan Papay, Esq.
300 East Esplanade Drive, ninth floor
Oxnard, CA 93036

December 17, 2004

Lieutenant Kusano:

I am a Land Use & Environmental Attorney, and an environmental consultant specializing in aesthetics. The attached memo is my analysis of the aesthetics section of the preliminary EIS/EIR for the proposed Cabrillo Port LNG facility near Oxnard, CA. My report reveals many deficiencies in the aesthetics component of the EIS/EIR. Your thoughtful consideration of my submittal is appreciated.

Sincerely,

Mark Alan Papay, Esq.
CA Landscape Architect 2064

LAW OFFICE OF MARK ALAN PAPAY
300 EAST ESPLANADE DRIVE • NINTH FLOOR • OXNARD, CA 93036

December 17, 2004

Lieutenant Ken Kusano (G-MSO-5)
U.S. Coast Guard
2100 Second Street, SE
Washington, DC 20593-0001

SUBJECT: Analysis of the aesthetics section of preliminary EIS/EIR for the proposed
Cabrillo Port LNG facility.

MEMORANDUM

Introduction:

This analysis of the aesthetics section of the preliminary EIS/EIR (hereinafter "EIR") for the Cabrillo port LNG facility reveals a number of deficiencies. Here, both expert and legal components are examined together, thus giving a proper setting for each. Please begin with page 2 if you desire to omit an exclusively legal discussion. The first section (general analysis) initially explores problems with the report as a whole, and ends with a discussion of the errors in the cited distances from proposed port to areas on land. A proper methodology for this analysis is detailed in the first section. The second report section (detailed review of aesthetics impact analyses) examines the analysis of each of the six selected impacts including the use of the significance threshold criteria cited in the report.

A final conclusion appears on page 9.

GENERAL ANALYSIS:

EVIDENTIARY STANDARD FOR AN EIR IS SUBSTANTIAL EVIDENCE:

The California Public Resources Code establishes the evidentiary standard used to measure whether a project has a significant effect on the environment. "The lead agency shall determine whether a project may have a significant effect on the environment based on substantial evidence in light of the whole record." (emphasis added) *Cal Pub Resources Code § 21082.2(a)*.

CERTIFICATION OF AN EIR THAT FAILS TO MEET THE SUBSTANTIAL EVIDENCE STANDARD CONSTITUTES AN ABUSE OF DISCRETION AND THEREFORE IS A BASIS FOR AN ACTION TO ANNUL THE CERTIFICATION:

"In any action or proceeding, other than an action or proceeding under Section 21168, to attack, review, set aside, void, or annul a determination, finding, or decision of a public agency on the grounds of noncompliance with this division, the inquiry shall extend only to whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the agency has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence." (emphasis added) *Cal Pub Resources Code § 21168.5*.

G460-1

Thank you for the information.

G460-2

Section 4.4.3 contains the significance criteria used in the analysis, which incorporate criteria specified in the State CEQA Guidelines. NEPA and the CEQA do not dictate an amount of information to be provided but rather prescribe a level of treatment, which may in turn require varying amounts of information to enable reviewers and decision-makers to evaluate and compare alternatives.

The document has been prepared in full compliance of both the NEPA and the CEQA with full disclosure of all potential environmental impacts of the proposed project, which constitutes substantial evidence in the public record to enable decision makers to make an informed decision on the proposed Project.

G460-1

G460-2

Memorandum re: LNG 12/17/04, page 2 cont.

SUBSTANTIAL EVIDENCE STANDARD REQUIRES EXPERT OPINION AND THE DRAFT EIR DOES NOT CITE AN EXPERT IN THE FIELD OF AESTHETICS:

"Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment, is not substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts and expert opinion supported by facts". (emphasis added) *Cal Pub Resources Code § 21082.2(c)*.

An expert is defined as "One who by reason of education or special experience has knowledge respecting a subject matter about which persons having no particular training are incapable of forming an accurate opinion or making a correct deduction" *Black's Law Dictionary, sixth edition*.

A review of the draft EIR does not reveal the use of expert opinion in the field of aesthetics. Code section 21082.2 (c) cited above distinguishes facts, reasonable assumptions predicated upon facts, and opinion, here noting that opinion must be formed & expressed by an expert. In the State of California as well as other states, individuals who have graduated from a school of Environmental Design in the field of Architecture or Landscape Architecture and successfully passed the State licensing examination in their respective field are recognized as experts in the field of aesthetics relative to the design of the human environment. A properly educated and accomplished fine arts professional would also qualify. It is for this reason that Architectural Boards of Review consist primarily of these professionals. A licensed Architect, Landscape Architect or qualified artist possesses the education and special experience resulting in knowledge regarding the subject matter of aesthetics. A person without this particular training is "incapable of forming an accurate opinion or making a correct deduction" in the field of aesthetics. By analogy, a traffic engineer would be incapable of forming an accurate opinion or making a correct deduction in the field of marine biology. An aesthetics expert is aware that the physical components of any element to be evaluated are its form, mass, color and texture. When these physical components are manipulated based upon the principles of balance, sequence and focalization: a positive or negative aesthetic change results. The cited aesthetics principles are employed both intellectually and intuitively by such experts and boards. Subjectivity minimization through composite opinion always results on boards.

An EIR prepared absent the use of expert opinion fails to meet the substantial evidence standard, thus constituting a prejudicial abuse of discretion and would therefore provide a basis for an action to annul the EIR certification (see page 1, above).

AN EXPERT METHODOLOGY THAT LOGICALLY TAKES ALL FACTORS INTO ACCOUNT WOULD MOST EFFECTIVELY ANALYZE AESTHETIC IMPACTS:

A substantiated expert opinion re: aesthetics would be best produced by a panel of aesthetic experts who would employ the known principles of aesthetics in a reasoned manner. The lead agency could expedite this process and minimize its cost by subcontracting the expert analysis to one or more existing Architectural Boards of Review (ie: City of Ventura, City of

G460-3

Appendix F provides information on this topic. As stated in section 15149(b) of the State CEQA guidelines, "In its intended usage, an EIR is not a technical document that can be prepared only by a registered professional. The EIR serves as a public disclosure document explaining the effects of the proposed project on the environment, alternatives to the project, and ways to minimize adverse effects and to increase beneficial effects."

G460-4

Section 4.4.1 summarizes the methodology for analyzing visual impacts. Appendix F includes additional information about the methodology used to evaluated aesthetic impacts and the specific mathematical equations that were used to verify the distances at which the FSRU would be visible. As stated in section 15204(a) of the State CEQA Guidelines, "CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commentors. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR."

G460-3

G460-4

Santa Barbara, County of Santa Barbara). The panel would utilize a questionnaire/matrix prepared by a single aesthetics expert, including the cited significance threshold criteria shown on pg. 3. The experts should be brought to vantage points that are carefully selected as being representative. The experts should be introduced to the impacts in question through the use of enlarged photo simulations. The distinct instruction to such a panel by the lead agency would be for the aesthetics analysis to be of the aesthetic change in the given view, as this

Memorandum re: LNG 12/17/04, page 3 cont.

report is an analysis of aesthetic impacts. This is rather distinct from the normal responsibility of Architectural Review Boards functioning as an Arts jury. The emphasis upon change as opposed to a project standing alone will account for the site of the proposed development (i.e.: site in natural seascape vs. site in an industrial park). The evaluation of impacts at each vantage point should be weighted by viewer sensitivity, and should be further weighted by the relative quantity of viewers (ie: high on a highway, moderate on a public beach and low on hiking trails). The findings of panel members should be averaged to minimize subjectivity.

SPECULATION AND UNSUBSTANTIATED OPINION DO NOT QUALIFY AS SUBSTANTIAL EVIDENCE, YET THE REPORT IS PREPARED IN THIS MANNER: Section 21082.2(c) (supra page 2) specifically disqualifies speculation and unsubstantiated opinion as substantial evidence. The analysis employed in the draft EIR utilizes speculation and unsubstantiated opinion, thus the EIR fails to meet the substantial evidence standard.

The draft EIR speculates with no factual basis about the opinions of different populations regarding the significance of the aesthetic change, as well as in other ways. Furthermore, the subject document renders unsubstantiated opinion as a basis for analysis through the use of non-existent and non-reviewed plans to be submitted at a future date as a basis for mitigation of impacts.

Certification of an EIR prepared with the use of speculation and unsubstantiated opinion fails to meet the substantial evidence standard, and thus constitutes a prejudicial abuse of discretion and therefore a basis for an action to annul the EIR certification (see page 1, above).

THE DRAFT EIR CITES A THRESHOLD FOR SIGNIFICANT AESTHETIC IMPACTS, THEN ALMOST COMPLETELY ABANDONS THE SPECIFIC THRESHOLD CRITERIA IN ITS ANALYSIS:

The draft EIR cites a threshold for significant aesthetic impacts on page 4.4-7, as follows:

For the purposes of this draft Environmental Impact statement/Environment Impact Report (EIS/EIR), aesthetic/visual impacts are considered significant if the project would:

- Substantially degrade the character of the area, degrade an existing viewshed or scenic vista, or alter the character of the viewshed by the introduction of anomalous structures or elements;

G460-5

See responses to Comments G460-2, -3, and -4.

Mitigation measures for each significant impact are stipulated throughout the EIS/EIR and those that require future products, e.g., the Biological Resource Mitigation Implementation and Monitoring Plan, contain a listing of topics that must be addressed. These requirements are performance standards by which such plans would be evaluated when it is practical to prepare them. Under the CEQA, mitigation measures "may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specific way." (State CEQA Guidelines section 15126.4(b)). NEPA does not require performance measures for proposed mitigation but only requires mitigation measures to be identified (40 CFR 1502.14(f) and 1502.16(h)).

The lead Federal and State agencies share the responsibility to ensure that mitigation measures are implemented. Table 6.1-1 in Chapter 6 is the basis for the Mitigation Monitoring Program, which would be implemented, consistent with section 15097(a) of the State CEQA Guidelines, to ensure that each mitigation measure is incorporated into Project design, construction, operation, and maintenance activities.

G460-6

Section 4.4.4 has been revised to explicitly address each significance criteria, which govern all analyses within Section 4.4.

G460-4
(cont.)

G460-5

G460-6

- *Substantially damage scenic resources including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway; and*
- *Creates a new source of substantial light or glare, which would adversely affect views from shoreline areas and adjacent water areas.*

This threshold criteria must be considered as establishing significance with the finding of any of the 3 elements, as a project could certainly have aesthetic impacts without substantive physical damage to scenic resources (element 2) or lighting (element 3). The elements of the threshold cited within the report are not tied to the facts of the analysis. The report preparer cites a threshold and then seems to "wing it" through the use of "speculation and unsubstantiated opinion" thus failing to meet the required substantial evidence standard.

Memorandum re: LNG 12/17/04, page 4 cont.

Certification of an EIR prepared with the use of speculation and unsubstantiated opinion resulting from the failure to properly use the cited threshold criteria fails to meet the substantial evidence standard, and thus constitutes a prejudicial abuse of discretion and therefore a basis for an action to annul the EIR certification (see page 1, above).

THE REPORT CONTAINS MATH/MEASUREMENT ERRORS REGARDING DISTANCES FROM THE SITE TO LOCATIONS ON LAND:

Mandalay Shores beach community continuously abuts Mandalay Beach. The chart on page 4.4-9 states that Mandalay Shores is 19 miles from the proposed site, while Oxnard Shores Mobile Home Park (at the far end of Mandalay Shores, further away from the site) is 17 miles from the site. The text on page 4.4-10 states that the site is 17 - 23 miles from Hollywood Beach, Mandalay Beach, Ormond Beach, Silver Strand beach, and Port Hueneme Beach; Mandalay Beach (Shores) is the most remote of these 5 beaches, thus the page 4.4-10 text indicates that the distance to Mandalay Beach (Shores) is 23 miles. Finally, on page 4.4-15

the text states that the distance to the site from Mandalay Shores is 26.1 miles. It is evident that this report is clearly inaccurate, thus both the public and the decision makers are not properly informed by it.

An EIR prepared with the use of clearly inaccurate evidence fails to meet the substantial evidence standard, and thus constitutes a prejudicial abuse of discretion and would therefore provide a basis for an action to annul the EIR certification (see page 1, above).

DETAILED REVIEW OF AESTHETIC IMPACTS ANALYSES:

This portion of the analysis uses the significance threshold criteria cited in the report. All analyses would best be done according to the methodology described on pages 2-3.

IMPACT AES-1 (regarding lighting of both the port and pipeline construction sites):

The draft EIR recognizes that "project activities may create a moderate degree of visual sensitivity for occupants of coastal residences and view corridors and those on State Highway 1". While this section of the EIR recognizes a significant aesthetic impact (although improperly mitigated, see discussion below), even this analysis is based upon

G460-6
cont'd

G460-7

G460-8

G460-7

Table 4.4-1 contains updated distances from onshore sites to the FSRU.

G460-8

Impact AES-5 in Section 4.4 discusses nighttime ocean views during construction and concludes that implementation of mitigation measure would limit views of pipeline construction and reduce this impact. Impact AES-6 discusses aesthetic impacts along the State Scenic Highway and concludes that potential impacts would be minor adverse and long-term but would not exceed the significance criteria.

NEPA and the CEQA require that an EIS/EIR contain a detailed discussion of possible mitigation measures; however, NEPA does not require that a complete mitigation plan be done at the time of the EIS. In *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 109 S.Ct 1835 (1989), the court determined that "[t]here is a fundamental distinction, however, between a requirement that mitigation be discussed in sufficient detail to ensure that environmental consequences have been fairly evaluated, on the one hand, and a substantive requirement that a complete mitigation plan be actually formulated and adopted, on the other."

Under the CEQA, mitigation measures "may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specific way." (State CEQA Guidelines section 15126.4(b)). AM BioMar-3a in Section 4.7.4 specifies the contents of the plan.

See also response to Comments G460-4 and G461-5.

Work and navigational lighting on board vessels used during construction of the offshore pipelines would be visible much of the time; however, this is a temporary condition not expected to last more than 1.5 to 2 months.

G460-9

See response to Comments G460-2 through G460-8.

unsubstantiated opinion because there is literally no basis for the opinion. A substantiated opinion could consist of the reasoned analysis of a panel of several aesthetics experts (see pages 2-3 above). Furthermore, the analysis of this aesthetic impact fails to include any of the elements of the cited threshold of significance (see page 3 above). Here in fact, the night-lighting of the proposed construction site would "degrade an existing viewshed or scenic vista". The night lighting of the proposed construction site within the context of a pristine ocean vista would certainly be significant, given the massive lit element within a darkened night view as well as the high degree of viewer sensitivity.

The LNG port and pipeline construction sites would "alter the character of the viewshed by the introduction of anomalous structures or elements" from Leo Carrillo Beach and nearby areas. Even a non-expert would not question the fact that the "character of the viewshed" would be altered by the lit construction sites, and the placement of a lit & massive construction sites within the darkened ocean viewshed could not be called anything but "anomalous".

Memorandum re: LNG 12/17/04, page 5 cont.

A lighted construction site within the darkened seascape would "substantially damage scenic resources" within a "State scenic highway". Again, the lit and massive construction sites would adversely "jump out" of the nighttime ocean view and thus be substantial; Highway 1 near the proposed site is a "State scenic highway".

Finally, the lit construction site would "create a new source of substantial light or glare", and this site would "adversely affect nighttime views from shoreline areas and adjacent water areas" as the site would be very apparent and anomalous at night with the "new" light source.

A more apparent error exists here as the purported mitigation of the impact is achieved by a non-existent plan which has obviously not been reviewed. "The applicant shall submit a plan that shows that the Project will apply restrictions on lighting." (emphasis added)
Draft EIR, page 4.4-23, table 4.4-3.

CONCLUSION:

The report analysis is based upon "speculation" and "unsubstantiated opinion", failing to employ its own significance threshold criteria or utilize expert opinion, and it utilizes a non-existent and non-reviewed plan re: lighting as a basis for mitigation of impacts. Therefore, this analysis fails to meet the required substantial evidence standard (see page 1, above).

Certification of an EIR which fails to meet the substantial evidence standard would comprise a prejudicial abuse of discretion, and therefore provide a basis for an action to annul the certification of the EIR (see page 1, above).

IMPACT AES-2 (regarding land located vantage points of the proposed site):

Selection of Vantage Points for Photographic Simulation is Deficient

G460-8
(cont.)

G460-9

This report shows photo simulations of the visual impacts from only 2 vantage points, neither of which are substantially elevated. The first simulated vantage point is on the mainland near Leo Carrillo State Beach, and the second is on Anacapa Island. The selection of elevated vantage points for simulation is critical because of visual "cut off" effected by the curvature of the earth. The report fails to photo simulate even one vantage point within the elevated areas. It is critical that the report selects vantage points that are both closer to and at more of a right angle to the long side of the port. The report should photo simulate more than one such vantage point in order to provide substantial evidence, as the areas in question comprise many square miles of area and the dramatic ocean view from such areas is a primary attribute. The LNG port should be acutely visible from the lower portions of State Highway 23, as well as elevated areas of Point Mugu State Park and Leo Carrillo State Park, especially from elevations of approximately 225 ft. above sea level. Furthermore, views from elevations above the 225 ft. level will begin to manifest the horizontal planes of the port, which are not painted to "dark blue". Based upon the EIR, at the single simulated vantage point on the mainland (near Leo Carrillo State Beach), the curvature of the earth actually "cuts off" 64 feet of the lower and most massive portion of the port (deleting approximately 60,000 square feet of vertical mass) as well as the horizontal planes of the port, because of the low elevation of the vantage point (44.6 feet above sea level).

Memorandum re: LNG 12/16/04, page 6 cont.

Analysis of Elevated Vantage Point Impacts are Insubstantial and Non-simulated

A proper evaluation from elevated vantage points is critical (see impact AES-2, page 5 above). While the draft report recognizes that "the views from higher coastline and island points would be altered by the presence of the FSRU", it insubstantially dismisses the significance of the impact because "different populations would dispute the significance of the change" while failing to simulate any such views. This statement is made and then dismissed, even while the criteria cited for a significant impact offers the statement "alter the character of the viewshed by the introduction of anomalous structures or elements". *Draft EIR, page 4.4.7* The report tells us that the views will be altered as per the given criteria, and it could not be denied that a massive industrial looking structure topped by three giant green globes is an "anomalous structure or element" in the context of a pristine seascape.

In addition, the statement dismissing the impact because of the purported "dispute" by "different populations" regarding the significance of the change cites no polling data or other criteria that would establish the fact that "different populations would dispute the significance of the change." Second, even if it was factually established that a dispute as to the significance would exist, such a dispute would not render the impact insignificant. Certainly, for example, if more than 50% of the population would find the visual impact to be significant, and less than 50% see it as insignificant, one would reasonably conclude that, although the population opinion would be in "dispute", the impact would be significant. Arguably such a finding by even 1/4 of the population would result in a finding of a significant impact.

G460-10

G460-10

Section 4.4 and Appendix F contain information on visual resources, impacts, and mitigation. Appendix F describes how visibility from various distances was evaluated and provides additional simulations prepared for viewpoints at elevated sites along the Malibu coastline and inland areas. Figure 2.2-1 shows the height of the structures above the loaded waterline, which is also discussed in Section 4.4.1.1. Section 4.4.1.2 contains additional information on off-shore views from the coastline. Section 2.2.2.2 contains information on the paint color and scheme for the FSRU hull.

A viewer standing on the road above the beach (about 47 feet above sea level) versus standing on top of Mugu Peak (1,271 feet above sea level) represents a change in viewing angle from approximately 0.03° at the beach to 0.64° on top of Mugu Peak. From a distance of 12 to 18 NM, the angle of elevation would make a negligible difference that would not be discernible to the naked eye. From both viewpoints, the FSRU would appear as a small, featureless shape at the horizon, and often would not be visible due to typical atmospheric conditions near the horizon.

G460-11

Section 4.4 contains information on the visual aspects of the Project, potential impacts, and measures to address such impacts. "...[t]he FSRU would appear similar in shape to commercial vessels that are frequently seen in the Project area..." Table 4.3-1 contains information on the numbers and representative sizes of vessels that are commonly found in the proposed Project area, which vessels constitute elements of the current environmental setting, in consideration of which the nature and extent of potential impacts must be judged. See Impact AES-1 in Section 4.4.4. Appendix F includes additional simulations.

G460-11

The report acknowledges that "higher points of the FSRU above the waterline would be visible from many locations in the Santa Monica National Recreation Area, including hiking trails." *Draft EIR, page 4.4-16* Following this statement, the report states that "From this bluff viewpoint, the entire FSRU would be visible" but then irrationally dismisses the impact, stating "but not clearly defined because of the hazy atmosphere" *Draft EIR, page 4.4-16*. There are clear days and there are hazy days in this area, as acknowledged in other parts of the report. In fact, the report shows photo simulations of a clear day as well as a hazy day from a lower elevation vantage point near Leo Carrillo State Beach. However, the report advances this statement regarding the "hazy atmosphere" as though there was never a clear day. Furthermore, visibility on even a hazy day would likely be shown to be significant from many closer and elevated vantage points, if the report correctly simulated both the clear and hazy conditions. The report fails to photo simulate either clear or hazy conditions here.

The report preparer makes a further attempt to dismiss the elevated vantage points with the statement "Because of the shape and color of the FSRU, it would appear as a indistinguishable object on the horizon." *Draft EIR, page 4.4-30* Assuming that the preparer is here referring to very elevated vantage points, the statement fails to account for the fact that the horizontal planes of the port will be visible from very high vantage points, as well as the giant green globes and the additional structures on the deck surface are not "dark blue" and very anomalous. Furthermore, the "shape" of the proposed port is absolutely anomalous to the surface of the ocean. If the preparer is referring to the less elevated vantage points, it makes no sense whatsoever as the "shape and color of the FSRU" is utterly foreign to the sky above the ocean.

Memorandum re: LNG 12/17/04, page 7 cont.

This Report Largely Fails to Employ its own Stated Threshold Criteria. Even A Simplistic Analysis That Properly Employs the Cited Threshold Criteria Would Reach a Different Conclusion.

As stated on pages 2-3, this report should be prepared in a completely different manner. However, this report even largely ignores its own stated criteria for a threshold of significance in its logic. Even an analysis in which an expert simply couples the facts with the cited threshold for significance thus forming an expert opinion, a different conclusion would result, given a proper selection of photo simulated vantage points as discussed above. In this manner it should be found, using the first element of the significance threshold criteria (see page 3, above) that the massive facility would "substantially degrade the character of the area" and "degrade an existing viewshed or scenic vista" by the "introduction of anomalous structures or elements" in spite of the distance involved. This would be a correct finding due to the massive character of the port which is accented by lighting, and viewed by highly sensitive viewers from pristine coastal vantage points. Certainly no person would argue, given the site, that the proposed facility is not "anomalous". If such a facility was located, for example, in a large industrial area in Los Angeles, the facility would not be anomalous and furthermore the viewer sensitivity would be reduced. Because the facility is anomalous and massive, possesses an industrial character, and the viewer sensitivity at the given natural site is extremely high, a finding of a significant impact based on the threshold criteria would be proper. Continuing with the analogy, if a dumpster full of trash was spilled in an industrial area of Los Angeles it would probably be unnoticed, whereas placing the same dumpster of trash on Leo Carrillo Beach would make any observer cringe. The proposed LNG facility is far more visually

G460-12

The visual simulations in Figures 4.4-13 and 4.4-16 represent views under clear conditions and Figures 4.4-14 and 4.4-17 represent views under typical marine conditions. Also see the response to Comment G460-10.

G460-13

From a minimum distance of 12 NM, one could not ascribe an "industrial" character to an unidentifiable offshore object at the horizon. Viewers would naturally be inclined to assume that it is a ship due to its location in a marine environment, but details of the FSRU would not be discernible. Figure 2.1-2 shows the locations of selected existing offshore industrial facilities and activities, including the coastwise traffic lanes, in relation to the proposed Project. Table 4.3-1 contains information on the number and representative sizes of vessels transiting the Project area.

Aesthetic and visual impacts are analyzed in accordance with the significance criteria cited in Section 4.4.3. Section 4.4.1.1 discusses lighting onboard the FSRU, and AES-2 in Section 4.4.4 concludes that, with implementation of mitigation, operational lighting of the FSRU would be below its significance criteria.

Again, see Section 2.2.2.2 for information on the paint color and scheme for the FSRU.

G460-12

G460-13

significant than a dumpster of trash, as it is massive, anomalous and visually accented by lighting at nighttime.

The **second element** of the cited significance threshold criteria mentions "substantial damage" of "scenic resources" within a "State scenic highway". Here, Highway 1 is a "State scenic highway" which is located in an area with "scenic resources". It should be found that substantial damage of the "scenic resources" would result from the LNG facility at Leo Carrillo State Beach and nearby areas given the analysis outlined in the preceding text.

Finally, analyzing with the use of the **third element** of the threshold criteria cited: the massive facility topped by three gigantic green globes lit at nighttime would jump out of the evening ocean scene and "create a new source of substantial light or glare, which would adversely affect views from shoreline areas and adjacent water areas", particularly from the areas at or near Leo Carrillo State Beach. Certainly the source of light is "new", and it would be difficult to argue that a massive and lit industrial facility within the seascape during the day or nighttime would not "adversely affect views".

G460-13
cont'd

Final Report Conclusion Regarding Impact AES-2 is Without a Logical Basis

The analysis of impact AES-2 finally concludes by stating "Due to the distance of the FSRU from Key observation points and the maritime character of the FSRU in the distance, this EIS/EIR concludes that the proposed port would not substantially degrade the character of the area, degrade an existing viewshed or scenic vista or alter the character of the viewshed by the introduction of anomalous structures or elements." Here, in citing only one of the three elements of the threshold criteria, the analysis ties no reasonable facts to it. The justification in the argument begins with the "distance of the FSRU from key observation points" and cites the "maritime character." The report does not show a basis for stating that the "distance" to the port will cause its impact to be rendered insignificant. The distance element is largely neutralized by the massive scale of the facility, yet this fact is not included in the analysis.

Memorandum re: LNG 12/17/04, page 8 cont.

The manifestation on the seascape of a massive rectangle with three huge green globes attached to it would arguably appear to be more industrial than "maritime" in character to most observers. Most importantly, this statement is made without a sufficient basis of photo simulations or expert opinion, as discussed above. The proper characterization of the apparent massiveness of the port, as well as its maritime vs. industrial character would best be analyzed according to the methodology described on pages 2-3, above.

CONCLUSION:

The argument here is largely without a rational basis and consists of "speculation" and "unsubstantiated opinion", and fails to properly employ even its own significance threshold criteria or utilize expert opinion. Therefore this analysis fails to meet the required substantial evidence standard. Certification of an EIR that fails to meet the substantial evidence standard would comprise a prejudicial abuse of discretion and therefore a basis for an action to annul the EIR certification (see page 1, above).

IMPACT AES-3 (regarding users on boats that are closer to the site):

The report here finds an unmitigated significant aesthetic impact. Much of the analysis provides conclusion without basis in dismissing some portion of the impact, yet the ultimate finding is reasonable and accurate.

G460-14

IMPACT AES-4 (regarding the permanent lighting of the completed port):

This impact is with regard to the lighting of the completed port facility. Refer to analysis of impact AES-1 (page 4-5, above). The analysis is based upon "speculation" and "unsubstantiated opinion", failing to employ its own significance threshold criteria or utilize expert opinion, and it utilizes a non-existent and non-reviewed plan re: lighting as a basis for mitigation of impacts. Therefore, this analysis fails to meet the required substantial evidence standard. Certification of an EIR which fails to meet the substantial evidence standard would comprise a prejudicial abuse of discretion, and therefore provide a basis for an action to annul the EIR certification (see page 1, above).

G460-15

IMPACT AES-5 (regarding the temporary on-shore construction staging areas):

This impact caused by the temporary (seven month duration) staging areas and equipment placed on-shore is shown to be mitigated to insignificance through the use of 6 ft. high fencing, "berms", and sensitive light positioning. There is no specification as to the height of the berms, however if they are constructed reasonably high and natural in contour this would probably present a reasonable mitigation measure, especially given the temporary nature of the impact. Furthermore, there is no specific design provided regarding light positioning, however if done in a reasonable manner this would present a reasonable mitigation measure, especially given the temporary nature of the impact. The specific design plan of the berms, fencing, lighting and elements to be found within the staging area must be analyzed to reach a proper conclusion.

G460-16

IMPACT AES-6 (regarding pipeline construction on land):

Refer to impact AES-5 analysis, above.

Memorandum re: LNG 12/17/04, page 9 cont.

FINAL CONCLUSION:

A proper expert analysis should conclude that the cited impacts AES-1, 2, 3 & 4 are significant and unavoidable. The report, as it stands, is insufficient in many ways. "An agency fails to proceed in a lawful manner where its environmental impact report omits relevant information and thus precludes informed decision making and public participation." (emphasis added) *City of Carmel-By-The-Sea v. U.S. Dept. of Transp.* (1996, CA9Cal) 95 F3d 892.

"In any action or proceeding, other than an action or proceeding under Section 21168, to attack, review, set aside, void, or annul a determination, finding, or decision of a public agency on the grounds of noncompliance with this division, the inquiry shall extend only to whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the agency

G460-17

G460-14

Public comment on Impact AES-3 in Section 4.4.4 has not disagreed with its conclusion.

G460-15

Impact AES-2 in Section 4.4.4 contains additional information on potential impacts to nighttime views.

G460-16

Impact AES-6 in Section 4.4.4 contains additional information about the potential aesthetic impacts due to onshore construction.

G460-17

See response to Comment G460-2.

Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.

has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence.” (emphasis added) *Cal Pub Resources Code § 21168.5*. Because this report is incomplete and inaccurate, proceeding with the project on the basis of such a report would be unlawful as it “omits relevant information”. Furthermore, much of the report fails to meet the required substantial evidence standard because of the use of non-expert opinion, speculation, unsubstantiated opinion, clearly inaccurate evidence and analysis that ignores the significance threshold criteria cited in the report. *Cal Pub Res Code § 21082.2(c)*. Proceeding in an unlawful manner or based upon a decision that is not supported by substantial evidence constitutes a prejudicial abuse of discretion and consequently a basis for a court to “set aside, void, or annul” the findings of the agency.

G460-17
cont'd

Respectfully submitted:

Mark Alan Papay, Esq.
CA Landscape Architect # 2064

Origin: E&E Website
Date: 12/20/2004
First Name: Aaron
Last Name: Papazian
Topic: Biological Resources - Marine, Biological Resources - Terrestrial
Comments: I'm greatly concerned about the impact mankind has on the natural environment and the animals therein. I was relieved, then, to note that state regulators have required BHP to address potential impacts on wildlife and the environment in the lead-up to construction of Cabrillo Port. Compared to many of the other things humans have built, it seems to have a sound plan that won't have too many adverse effects on the critters.

G287-1

Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.

From: Roger Pariseau [mailto:rpariseau@adelphia.net]
Sent: Tuesday, November 02, 2004 3:42 PM
To: Oggins, Cy
Subject: EIR/EIS for Cabrillo Port

2004/G110

Hi Cy --

I received a copy of the Draft EIR/EIS and have scanned enough of it to ascertain that the document fails in virtually every aspect. Instead of performing their own tests/experiments, the preparers simply relied on FERC's "Consequence Assessment Methods for Incidents Involving Releases from Liquefied Natural Gas Carriers" of May 13, 2004. This document begins with disclaimers sufficient enough to declare that document pure fiction.

They also poo-poo'ed as "Less than significant" such items as the "Increased Demand for Housing: The influx of non-local workers could reduce the availability of accommodations in the Project area, particularly among the low-cost categories."

Please be advised that there is no, repeat NO, low-cost housing available in Santa Barbara, Ventura, or Los Angeles Counties at this time. There are some government-supported programs for "affordable housing" purchasers and for Section 8 rentals. Both of these programs are booked out for the next decade.

On the other hand, there's quite a bit of "above median" (translation: more than \$1,000,000 per unit) housing available both for purchase and as rentals. Billiton's 380+ worker-bees will need to bring tents with them. But, alas, land zoned for residential purposes currently sells for around \$1,200,000 per acre so they'd better bring fat checking accounts with them as well.

Seems your EIR/EIS preparers couldn't find the time to Google my web presence which has covered local housing costs for the past decade or so.

One box ahead of the housing one purports "Small Increased Demand for Public Services." Unless each worker earns more than \$50,000 per annum they will become available for local public services at local taxpayers' expense. This will not do! Median house prices/rental fees require a minimum earnings of \$74,000 per annum. If Billiton cannot or will not pony up this kind of money, then their proposal fails to satisfy the requirements of the United States Constitution. Billiton may not hold us taxpayers (as opposed to ratepayers) liable for costs they have incurred.

I could go on and on particularly as regards LNG spills. No hard-science experients have ever been conducted regarding cryogenic spills of any sort, so the ensuing assumptions -- my! the EIR/EIS is rife with "assumptions" isn't it?! -- are blatantly unsupportable.

I requested verbally and in writing that this EIR/EIS contain pure scientific facts; not the assumptions of individuals no matter how well "qualified."

I've immediately identified 15 other topical areas of the EIR/EIS that fail to meet even kindergarten standards of exposition. The entire document appears boilerplated from some other, equally-ridiculous and unsupportable document.

Assumptions and computer modeling based on assumptions just do not cut it. Suggest you start over with some entity capable of generating provable results.

Other than cringing from that tirade, I hope you have a better day than I'm having so far!

--
Roger

G110-1

The Independent Risk Assessment (IRA) has been updated since issuance of the October 2004 Draft EIS/EIR. The lead agencies directed preparation of the current IRA, and the U.S. Department of Energy's Sandia National Laboratories independently reviewed it, as discussed in Section 4.2 and Appendix C.

G110-1

Section 4.2.7.6 and the IRA (Appendix C1) discuss the models and assumptions used and the verification process. Sandia National Laboratories (Appendix C2) concluded that the models used were appropriate and produced valid results.

G110-2

G110-2

Section 4.16.3 discusses the impact on available housing.

G110-3

Section 4.16.3 discusses the impact on existing public services.

G110-4

Section 4.2 and Appendix C contain additional and revised information on public safety.

Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.

G110-3

G110-4

Origin: E&E Website
Date: 12/20/2004
First Name: Ken
Last Name: Park
Address: 2245 West Cleveland Ave.
City: Madera
State: CA
Zip Code: 93637
Topic: Agriculture and Soils
Comments: I was pleased to see that the agricultural community wouldn't be affected by this project. Restraining increases in the cost of natural gas, which is a key component of several parts of agricultural production, have stressed the agricultural community. Building and utilizing Cabrillo Pot can only benefit Ventura County's agricultural communities

G257-1

Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.

Origin: E&E Website
Date: 12/19/2004
First Name: Catherine
Last Name: Patterson
Address: 228 Hillcrest Ave.
City: Benicia
State: CA
Zip Code: 94510
Topic: Air Quality
Comments: My grandchildren have asthma. My children have made me aware that the air in California could be to blame. I understand that we need more energy in here in our state and was excited to see in the EIS/EIR that the port would be located so far out to sea. It seems logical that any amount of air pollution would remain at sea and diminish. I also saw/heard that BHPB would be using natural gas to power their boats instead of diesel. Again, better for our air-quality. Combined with all this, natural gas is clean burning and has little to no effect on air-quality. Thanks for allowing such a project to be evaluated. I look forward to seeing it's production.

G240-1

Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.

Date: 12/20/04

2004/G461

**THE LEAGUE OF WOMEN VOTERS
OF VENTURA COUNTY**
789 CRANMONT CT., SIMI VALLEY, CA 93065

December 19, 2004

U.S. Department of Homeland Security
U.S. Coast Guard

U.S. Department of Transportation
Maritime Administration

California State Lands Commission

Federal Docket No. USCG-2004-16877
State Clearinghouse No. 2004021107
CSLC EIR No. 727

To: Cy Oggins, California State Lands Commission
ogginsc@slc.ca.gov
Lieutenant Ken Kusano, U.S. Coast Guard
kkusano@comdt.uscg.mil

From: League of Women Voters of Ventura County
789 Cranmont Ct., Simi Valley, CA 93065
jspymurray@sbcglobal.net

Subject: Notice of Comment for the Cabrillo Port Liquified Natural Gas Deepwater Port
Draft Environmental Impact Report/Environmental Impact Statement

The League of Women Voters of Ventura County is deeply concerned about the proposed Cabrillo LNG Deepwater Port and we are troubled by critical issues that raise questions about how best to safeguard our energy resources. The following comments will address our most serious questions.

Conditions of permit/license to operate the FSRU:

We are concerned that there appears to be no time limit placed on the license to operate the offshore facilities. The EIS/EIR indicates that the FSRU has an expected life of 40 years after which a separate environmental impact study would be required to determine how it should best be decommissioned. We recommend the license to operate this facility be established at no more than 40 years.

G461-1

Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.

G461-2

Section 1.0 contains information on this topic.

G461-1

G461-2

We also recommend that responsibility for oversight of the decommissioning should rest with the State of California in consultation with the California Coastal Commission and affected local governments. It is after all our coastline and our beaches that will be affected and the federal government's interest from a national energy policy perspective will no longer be relevant.

State and Local Roles in the Location of LNG Facilities:

While we acknowledge the interest of the federal government in the location of and number of LNG facilities from a national energy perspective, we believe strongly that the State and local governments that will be affected by proposed facilities must have an equal voice. These entities have legal jurisdiction over integral parts of the project as well as a moral responsibility for the health, safety and welfare of their residents. The best course of action for all concerned is a consensual process where each entity is an equal partner.

Protection of Local Communities:

Ventura County and its cities will be the most affected by the location of an LNG facility off the coast of Oxnard and the construction of the related facilities including over 20 miles of new pipeline across the county. Ventura County and its residents will accordingly bear the health and safety risks and environmental costs associated with the project. The EIS/EIR acknowledges many of these risks, hazards and costs and admits that it is impossible to protect against or mitigate these 100 percent.

The associated risks and costs must be addressed in the best possible manner during construction and operation of the project. There also must be clear responsibility for monitoring performance, correcting deficiencies and assessing penalties if necessary. In addition, the State of California and local governments should be provided the opportunity to review, comment and revise (1) the health and safety plan developed by the Applicant to cover both construction and operation phases of all the facilities, including the pipelines and (2) the contingency plans developed by the applicant for addressing catastrophic events, spills, earthquake damage, pipeline ruptures, etc., including emergency preparedness plans.

In addition, we believe the Applicant should, in conjunction with SoCalGas, be required to guarantee the cities and County adequate supplies of natural gas at reasonable rates for the life of the project; guarantee the State and local governments that any resulting damage to the coastline or beach or their habitat will be repaired or restored at the expense of the Applicant; and take full financial responsibility for any other damages that might occur directly to persons or property as a result of the project.

Finally, to the agencies that bear the regulatory responsibility for reviewing and approving this and similar projects, we want to emphasize that the acceptance of this project by Ventura County is made possible only by reason of its relatively better location, farther away from land and the County population and having less visual impact from shore. This is the sort of buffer that should be required of all such projects and new facilities proposed closer to shore or on land will meet much stiffer resistance.

G461-3

G461-4

G461-5

G461-6

G461-7

G461-8

G461-9

G461-3

The projected FSRU in-service life is a maximum of 40 years. Environmental conditions and specific impacts 40 years from now are not reasonably foreseeable. As noted in Section 2.8, supplemental NEPA/CEQA documentation, which would take into consideration the environmental conditions at the time, would be required prior to the decommissioning of the FSRU. Also as noted in Section 2.8, as part of the license approval, the DWPA requires each applicant to furnish a bond or demonstrate other proof that if the project is abandoned then sufficient monies would be available for either completion or demolition of the project.

G461-4

Section 1.1.2 contains information on the Governor of California's role in DWP licensing. As discussed, MARAD may not issue a license without the approval of the Governor of the adjacent coastal state (33 U.S.C. 1503(c)(8)). Section 1.1.3 contains information on the role of the U.S. Environmental Protection Agency (USEPA): "[t]he Port must meet all Federal and State requirements and is required to obtain air and water discharge permits from the USEPA." Section 1.2.1 contains additional information on Federal and State responsibilities. Section 1.1.4 contains information on the role of the CSLC to consider whether or not to grant a lease of State lands for the subsea pipelines. The lease may also include conditions relating to those parts of the Project not located on the lease premises. As described in Section 1.3.1, one of the main purposes of the EIS/EIR for MARAD is to "(f)acilitate a determination of whether the Applicant has demonstrated that the DWP would be located, constructed, and operated in a manner that represents the best available technology necessary to prevent or minimize any adverse impacts on the marine environment."

The USEPA, the U.S. Department of Commerce, including NOAA's National Marine Fisheries Service (NMFS or NOAA Fisheries Service), and the U.S. Department of the Interior, including the Minerals Management Service and the U.S. Fish and Wildlife Service, are cooperating Federal agencies.

As discussed in Section 1.3.2, for significant impacts, the CSLC must adopt a Statement of Overriding Considerations to approve the Project if the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects (State CEQA Guidelines section 15093(a)). After the CSLC's decision, other State and local agencies may take actions on the Project, i.e., on related permits or necessary approvals. These agencies include the California Public Utilities Commission, the California Coastal Commission, the

California Department of Fish and Game, the California Air Resources Board, the Los Angeles Regional Water Quality Control Board, the California Department of Transportation, the City of Oxnard and/or Ventura County (for the onshore part of the Project within the coastal zone), and local air quality control districts such as the Ventura County Air Pollution Control District and the South Coast Air Quality Management District. Section 1.4.2 contains information on the changes to the proposed Project that have been made during the environmental review process.

Section 1.5 contains information on opportunities for public comment. After the MARAD final license hearing, the public will have 45 days to comment on the Final EIS/EIR and the license application. The Federal and State agencies will have an additional 45 days to provide comments to the MARAD Administrator. The Administrator must issue the Record of Decision within 90 days after the final license hearing. The CSLC will hold one or more hearings to certify the EIR and make the decision whether to grant a lease. The California Coastal Commission will also hold a hearing. Comments received will be evaluated before any final decision is made regarding the proposed Project.

G461-5

The lead Federal and State agencies share the responsibility to ensure that mitigation measures are implemented. Table 6.1-1 in Chapter 6 is the basis for the Mitigation Monitoring Program, which would be implemented, consistent with section 15097(a) of the State CEQA Guidelines, to ensure that each mitigation measure is incorporated into Project design, construction, operation, and maintenance activities.

G461-6

Section 2.1 contains information on design criteria and specifications, final design requirements, and regulations governing the construction of the FSRU. The Cabrillo Port must be designed in accordance with applicable standards, and the U.S. Coast Guard has final approval. Section 4.2.4 contains information on Federal and State agency jurisdiction and cooperation. The USCG specifies performance levels that all deepwater ports must meet; Section 4.2.7.3 contains information on design and safety standards for the deepwater port. Section 4.2.8.2 contains information on pipeline safety and inspections. The EIS/EIR's analyses have been developed with consideration of these factors and regulations. Appendix C3-2 contains additional information on this topic. See also the response to Comment G461-4.

G461-7

The allocation and price of natural gas are not within the scope of this EIS/EIR.

G461-8

Section 4.2.5 contains information on liability in case of an accident and reimbursement for local agencies.

G461-9

This EIS/EIR only evaluates the proposed Project and is not designed to set policy for any other LNG terminal project.

Concerns of security and safety:

We are deeply concerned about the dangers associated with the proposed LNG project (FSRU). Section 4.2-1-81 and the EIS/EIR Appendix C raise serious questions and cause us most concern about a broad range of topics.

The EIS/EIR states that "Although the LNG industry has been operating for 40 years, fewer than 20 marine accidents involving LNG have occurred worldwide, none of which resulted in a significant release of LNG" (Page 4.2-1). We do not find this statement a valid argument to demonstrate LNG safety. First, the future environment will not be the same as the past. An offshore port will be a new project and a new subject will potentially be subject to attacks by terrorists. Second, past performance is no guarantee of future performance. It is only safe to assume that anything can go wrong and that assumption must be the basis of any EIS/EIR.

Further, the EIS/EIR states that "Evaluating the potential safety impacts from the proposed Project required the use of a structured process that would make the results available to decision makers and the public, while also ensuring that release of relevant information does not in turn create a security threat" (p. 4.2-1, Section 4.2). This information denies the public vital information on the grounds that release of this same information will create a security threat. In fact, not releasing this information may well create a security threat as the result of a false sense of security.

We also are not convinced that "If the license and lease were approved, additional safety evaluations would be conducted throughout the design, construction and operation of the project" (Page 4.2-1, Section 4.2). We ask the proponents of the EIS/EIR these specific questions: what safety evaluations will be conducted? who will be conducting them? what will be available to the public? who will be likely to be at risk? and who should know about risks associated with by the project? Unless these questions are answered, we cannot ask the people of Oxnard and Malibu or the League of Women Voters of Ventura County to be so accepting.

A major concern involves the danger of expansion or evaporation from compressed liquefied form into unodorized pipeline quality natural gas. Would the heat of vaporization come from ocean water or from burning natural gas? In either case, what would be the environmental impact? (Page 4.2-3).

Finally in this section, we are concerned that the modeling done to date may be insufficient to anticipate potential events, assess damages and determine appropriate safeguards. We recommend that the regulatory agencies responsible for this project pay particular attention to the models being used and require the applicant to undertake such additional modeling as appropriate to assure the public that all reasonably anticipated events have been evaluated.

G461-10

G461-11

G461-12

G461-13

G461-14

G461-10

The IRA does not assume safety but rather evaluates a range of potential accidents because it is part of the environmental baseline.

G461-11

The IRA was determined to contain sensitive security information (SSI), and it was not made available to the general public; however, it was available for review by Federal, State, and local agency staffs and officials with safety and security responsibilities and clearances. The results of the 2004 IRA were summarized in the October 2004 Draft EIS/EIR.

With the exception of certain SSI in Appendix D, the entire text of the IRA and its supporting documents are included in Appendix C. As noted in the preface to Appendix D (Collision Analysis) to the IRA, "(t)he complete report is available for review by Federal, State, and local agency staffs and elected officials with safety and security responsibilities and clearances."

G461-12

Section 2.1 contains information on design criteria and specifications, final design requirements, and regulations governing the construction of the FSRU. The Cabrillo Port must be designed in accordance with applicable standards, and the U.S. Coast Guard has final approval. Section 4.2.4 contains information on Federal and State agency jurisdiction and cooperation. The Deepwater Port Act specifies regulations that all deepwater ports must meet; Section 4.2.7.3 contains information on design and safety standards for the deepwater port. Section 4.2.8.2 contains information on pipeline safety and inspections. Impact EJ-1 in Section 4.19.4 addresses additional pipeline design requirements in areas of low-income and minority communities. The EIS/EIR's analyses have been developed with consideration of these factors and regulations and in full conformance with the requirements of NEPA and the CEQA.

G461-13

Section 2.2.2.3 describes the regasification process and how the LNG would be vaporized. Natural gas would provide the heat for vaporization. Primary odorization would occur on the FSRU (see Section 2.2.2.4).

G461-14

The Independent Risk Assessment (IRA) has been updated since issuance of the October 2004 Draft EIS/EIR. The lead agencies directed preparation of the current IRA, and the U.S. Department of Energy's Sandia National Laboratories independently reviewed it,

as discussed in Section 4.2 and Appendix C.

Section 4.2.7.6 and the IRA (Appendix C1) discuss the models and assumptions used and the verification process. Sandia National Laboratories (Appendix C2) concluded that the models used were appropriate and produced valid results.

Agriculture, soil resources, and air quality:

Although the EIS/EIR states that farmers in the area during onshore pipeline construction during the project will be compensated for losses, topsoil may be degraded, dust will be increased, and trees will be lost. The applicant says that potential harm to the land includes soil compaction, reduced fertility, poor revegetation, and the introduction of noxious weeds, but mitigation measures are spelled out in Table 4.5-5. Trees that the EIS/EIR says will be permanently lost must be replaced as a mitigation measure. Dust could reduce productivity in nearby land during the construction period. Earth-moving activity onshore would require dust suppression during construction. Watering to reduce dust is the mitigation measure, but we are concerned about how and who will be established as the agents responsible for monitoring this condition.

G461-15

G461-16

Ventura County has an air quality problem at present, even without the FSRU, which would worsen the air quality and not be completely controlled by the mitigation measures (4.6.5). Ventura County's air quality is listed as severe and does not meet NAAQS standards for ozone and particulate matter now. During offshore operations, ammonia could be released in excess of reportable quantities, endangering workers, and in the event of a pipeline accident, volatile organic compounds could be exposed to the atmosphere. We recommend that "mitigation measures" be fully spelled out in the EIR/EIS and that agents be held responsible for any damage to agriculture, soil, and air quality and subsequent restoration to the environment in the process of the project.

G461-17

G461-18

G461-19

We are particularly concerned about potential adverse effects on Ormond Beach, about which we addressed the proponents earlier (March 15, 2004 Comment letter). For 20 years or more, the League has supported the recovery of the wetlands and beach on Ormond Beach. The Oxnard Coastal Land Use Plan governs land uses in the Ormond Beach Coastal Zone Area which proposes to cross the project route from approximately milepost 0.0 to MP.2 (p. 4.11). We are troubled about how the subsea natural gas pipelines come ashore and extend 0.65 miles below the beach, terminating at the existing Reliant Energy metering station adjacent at Ormond Beach, and tying in to the SoCalGas system. In order to preserve this unique natural environment, we recommend that the project sponsors be required to put money aside to restore the habitat and repair any damage to the beach.

G461-20

Although we will continue to monitor the proposed project, we appreciate the opportunity to address our concerns. Thank you for your attention to our letter.

Pam Pecarich, co-president
League of Women Voters of Ventura County
P.O. Box 25130
Ventura, CA 93003
ppecar@aol.com 805-653-6200

G461-15

MM TerrBio-2g in Section 4.8.4 addresses this topic.

G461-16

Impact AGR-4 in Section 4.5.4 addresses dust generated during construction. Table 6.1-1 identifies agencies responsible for monitoring each of the mitigation requirements.

G461-17

The Project has been modified since issuance of the October 2004 Draft EIS/EIR. See Section 1.4.2 for a summary of Project changes. Impact AIR-8 in Section 4.6.4 contains an updated analysis of impacts on air quality from the FSRU and Project vessels.

G461-18

Impact AIR-8 in Section 4.6.4 contains information on ammonia at the FSRU.

G461-19

Impact AIR-3 in Section 4.6.4 contains revised information on impacts from a pipeline release.

G461-20

As described in Section 2.3.2, the shore crossing would be installed beneath Ormond Beach. Sections 4.8.1 and 4.14.1.2 discuss Ormond Beach wetlands. Section 4.8.4 discusses mitigation measures to minimize impacts on wetlands. The presence of the pipelines under Ormond Beach would not restrict access to the area for recreation or otherwise alter recreation opportunities at Ormond Beach. During construction, the horizontal directional boring activities would be contained within the Reliant Energy property, and the pipeline would be buried underneath the beach. This topic is discussed further in Sections 4.15.4 and 4.2.8.4. Updated information about the restoration efforts at Ormond Beach is included in Section 4.13.2. Figure 4.13-1 has been revised.

Pat Murray, co-president
League of Women Voters of Ventura County
789 Cranmont Ct.
Simi Valley, CA 93065
jspymurray@sbcglobal.net 805-522-4231

Ann Gist Levin, Action V.P.
1772 Poli Street
Ventura, CA 93001
anngistlev@earthlink.net 805-652-1365